

**NOTICE TO THE RESIDENTS AND TAXPAYERS OF
DISTRICT TOWNSHIP, BERKS COUNTY, PENNSYLVANIA**

Notice is given that the Board of Supervisors of District Township, Berks County, PA, will hold a public hearing, followed by a regular meeting of the Board of Supervisors on September 16, 2021, at 7:00 P.M. at the Township Building located at 202 Weil Road, Boyertown, Berks County, Pennsylvania. The purpose of the public hearing is to inform the public, and receive public testimony followed by a regular meeting of the Board of Supervisors to adopt Ordinance 2021-03 entitled: "AN ORDINANCE OF DISTRICT TOWNSHIP, BERKS COUNTY, PENNSYLVANIA REQUIRING THE REMOVAL OF DISEASED OR DANGEROUS TREES THAT IMPACT PUBLIC SAFETY OR USE OF PUBLIC ROADWAYS." At the conclusion of the public hearing, the Board will convene its regular meeting and intends to adopt this same Ordinance. The full text of the Ordinance is set forth below and may be examined without charge, or copies may be obtained for a charge not greater than the cost thereof, at the District Township Municipal Building during Office hours of Tuesday and Thursday, 8:00 a.m. – 3:00 p.m. or by appointment with the Township Secretary, (610) 845-7595. All interested parties may appear and be heard.

Elaine Schwien, Township Secretary

**ORDINANCE #2021-03
AN ORDINANCE OF DISTRICT TOWNSHIP BERKS
COUNTY PENNSYLVANIA REQUIRING THE
REMOVAL OF DISEASED OR DANGEROUS TREES
THAT IMPACT PUBLIC SAFETY OR USE OF PUBLIC
ROADWAYS**

WHEREAS District Township, Berks County, PA is a Second Class Township in the Commonwealth of Pennsylvania (The Township);

WHEREAS Section 2907 of the Second Class Township Code (53 P.S. § 67907) expressly authorizes the Township to require Landowners to cut and remove trees if the condition of trees unreasonably affects or interferes with the health safety and welfare of the public or the right of the public to the unobstructed use of public roads or property;

NOW THEREFORE the Board of Supervisors of District Township, Berks County, PA, in lawful session duly convened hereby ENACTS AND ORDAINS as follows:

Section 1. All Landowners of property within the Township shall be responsible for and shall maintain all trees on their Property within the Township that are described in Section 2 of this Ordinance. If there is more than one Landowner as defined in this Ordinance, this obligation shall be joint and several among all such Landowners.

Section 2. Trees that are the subject of the provisions of this Ordinance are all trees that have any Fall Zone area that includes any land area through or upon which a public or private road, alley, street, or highway passes, in whole or in part, as well as any land to which the public has a right of access such as but not limited to a trail, park, or other permissible public access.

Section 3. In the event any tree, through disease or any other cause is dead, diseased, contains broken limbs or branches or is in any other condition which could cause the tree or any

part thereof to fall, break, or in any other way injure any persons or damage any property within or passing through the Fall Zone area, (the Dangerous Condition) the Landowner shall promptly cut and/or remove the tree to eliminate the Dangerous Condition. This includes but is not limited to trees where the Fall Zone area contains any public or private road, alley, street, or highway or any part thereof. Removal shall be at the Landowner's sole cost and expense.

Section 4. The Landowner's obligations under this Ordinance are ongoing and do not depend on Notice from the Township. However, the Township may not pursue enforcement action unless and until the following procedures have been followed:

a) The Township determines that a tree governed by this Ordinance affects or interferes with or poses any danger to the public, or where the tree poses a present risk to or does actually obstruct all or any portion of any road, alley, street, or highway as defined herein;

b) The Township notifies any one or more of any Landowners of the Dangerous Condition and requests removal. This notice shall be sent certified mail return receipt requested. In addition to certified mail, the Township may also cause the Landowner to be personally served by any constable or competent adult, or other method enabling the Township to prove receipt thereof;

c) The Landowner shall have thirty (30) days from the date of the notice to cut and/or remove the tree to eliminate the Dangerous Condition.

Section 5. In the event the Landowner addressed in the Notice fails or refuses to comply as set forth in the notice, the Township may but is not obligated to enter the Property and cut and remove the tree or trees at the Landowner's sole cost and expense. If the Township enters the Property and cuts and/or removes the tree or trees, all Landowners identified in the Notice shall be jointly and severally liable to the Township for all costs, expenses, equipment, contractors, and other fees and expenses of any kind related thereto, including but not limited to Legal fees and court costs. Such costs and fees SHALL BE a Lien against the Property upon which the Tree or trees is located and may be enforced and collected in the same manner as other municipal Liens.

Section 6. In addition to and not in limitation of the right and remedies provided above, the Township shall also have the right and power to pursue fines and penalties as set forth in Section 1601 (c.1)(2) of the Second Class Township Code (53 P.S. §66601(c.1)(2) and impose a fine in the amount of up to \$1,000.00 dollars per violation. Each date that a violation shall remain uncured after the thirty (30) day notice shall be deemed a separate violation and a separate fine.

Section 7. Nothing in this Ordinance increases or diminishes the provisions of Section 2325 of the Second Class Township Code (53 P.S. §67325) concerning the Limitation on Township regarding Trees within Township Road Rights of Way. Further for the avoidance of doubt, all trees encompassed in the legal description of a Landowner's property remain the responsibility of the Landowner(s) regardless of whether they are also located within the Township Right of Way.

Section 8. When used in this Ordinance the following terms shall be used and interpreted to have the following meaning unless the context clearly and unambiguously indicates otherwise:

Fall Zone - The land area encompassed by a circle whose radius is measured from the bark of the tree at ground level and extending out in a 360 degree circle around the trunk of the tree by a length equal to the height of the tree at its highest point;

Landowner - The person, persons, or entity or entities hold the underlying fee simple ownership interest, and includes any and all persons and/or entities to whom the landowner has granted any possessory interest such as tenants, licensees, lenders in possession and the like but

expressly excludes the right of public possession and excludes the Township;

Property - The land area contained within the metes and bounds or other description in the vesting deed.

Section 9. In the event that any provision, section, sentence, clause or portion of this Ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of the Township that the remainder of this Ordinance shall be and remain in full force and effect notwithstanding the fact that such portion thereof shall be invalid or unconstitutional.

Section 10. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed insofar, but only insofar, as the same are in direct conflict with this ordinance, but this ordinance is intended to be interpreted consistently with all other health, safety and regulatory statutes and ordinances and provide additional remedies where possible.

Section 11. This Ordinance shall take effect five (5) days subsequent to its passage.

ORDAINED and ENACTED as an Ordinance of District Township, Berks County, Pennsylvania, in lawful session duly assembled this ____ day of _____, 2021.

[signature lines intentionally omitted]